



*State of New Jersey*

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October 28, 2011

Honorable Kevin R. Huennekens, U.S.B.J.  
U.S. Bankruptcy Court  
701 East Broad Street  
Suite 4000  
Richmond, VA 23219

Re: Circuit City Stores, Inc.  
Case No. 08-35653

Dear Judge Huennekens:

Please be advised that the State of New Jersey, Division of Taxation ("N.J. Division"), hereby object to the Liquidating Trust's Objection to Claim Nos. 2300 and 11861.

On or about December 22, 2008, the N.J. Division filed a Priority Proof of Claim in the amount of \$276,769.26<sup>1</sup>. This claim resulted from an audit of debtors for the period July 2001 through September 2005. The audit resulted in a Sales and Use Tax assessment against debtors in the amount of \$167,521.65 plus penalty and interest. The Notice of Assessment was mailed to the

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<sup>1</sup>The claim also included a Corporation Business Tax assessment against Circuit City Stores West Coast in the amount of \$5,000. That assessment has subsequently been withdrawn, and therefore the N.J. Division's Priority Claim may be reduced to \$271,769.26.



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debtors on December 3, 2008. Pursuant to N.J.S.A. 54:49-18, N.J.S.A. 2B:13-1, and N.J.R. 8:4-1, debtors had ninety (90) days from the date of the Notice of Assessment to contest the audit findings. Debtors failed to do so.

Furthermore, the assessment is based upon a review of debtors' own books and records. The N.J. Division's auditor examined the books and records of debtor, and determined that: (1) debtors failed to charge sales tax properly and/or could not support its sales tax exemptions on consumer sales, (2) debtors failed to pay sales tax on certain expenses, and (3) debtors failed to pay use tax on certain fixed assets.

On or about March 6, 2009, the N.J. Division filed a First Amended General Unsecured Claim in the amount of \$1,962,999.24<sup>2</sup>. This claim resulted from an audit of debtors for the period March 2001 through February 2002. The audit resulted in a Corporation Business Tax assessment against debtors in the amount of \$706,054.53 plus penalty and interest. The Notice of Assessment was mailed to the debtors on April 30, 2009. Pursuant to N.J.S.A. 54:49-18, N.J.S.A. 2B:13-1, and N.J.R. 8:4-1, debtors had ninety

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<sup>2</sup>The claim also included a Corporation Business Tax assessment against Circuit City Stores West Coast in the amount of \$5,000. That assessment has subsequently been withdrawn. Furthermore, the N.J. Division is willing to reduce its Claim to remove the liability for First North American National Bank. Thus, the N.J. Division's First Amended General Unsecured Proof of Claim may be reduced to \$1,116,289.24.

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(90) days from the date of the Notice of Assessment to contest the audit findings. Debtors failed to do so.

Furthermore, the assessment is based upon a review of debtors' own books and records. The N.J. Division's auditor examined the books and records of debtor, and determined that: (1) debtors failed to conduct its inter-company transfer pricing at an arm's length rate, and (2) debtors failed to adjust its state depreciation expense even though it reduced its depreciation expenses for federal purposes on an amended return.

Consequently, contrary to debtors assertions, the claims of the N.J. Division are based upon the debtors own books and records. Therefore, the N.J. Division requests this court to deny debtors motion, and allow the N.J. Division's claims in full.

Sincerely yours,

PAULA T. DOW  
ATTORNEY GENERAL OF NEW JERSEY

By: /s/ Heather Lynn Anderson  
Heather Lynn Anderson  
Deputy Attorney General